



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,088	07/27/2001	Richard H. Boivie	YOR920010160US1	9147

23334 7590 06/17/2005

FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI  
& BIANCO P.L.  
ONE BOCA COMMERCE CENTER  
551 NORTHWEST 77TH STREET, SUITE 111  
BOCA RATON, FL 33487

EXAMINER

NGUYEN, TRONG NHAN P

ART UNIT PAPER NUMBER

2152

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/917,088

Applicant(s)

BOIVIE ET AL.

Examiner

Jack P. Nguyen

Art Unit

2152

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: None  
Claim(s) objected to: None  
Claim(s) rejected: 1-37  
Claim(s) withdrawn from consideration: None

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached Advisory Action.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is in response to Applicant's response after Final filed on 5/25/05.

#### ***Response to Arguments***

Applicant's arguments in the request for reconsideration filed on 5/25/05 have been fully considered. The 35 USC 112, 1<sup>st</sup> paragraph, argument is persuasive; therefore, the rejection has been removed. As for the rest of the arguments, they have been fully considered but are not persuasive. Applicant asserts Diwan does not disclose or suggest "...the first client and the second client make requests for content to be delivered via unicast packets." However, Diwan discloses the clients (105, 110, fig. 1; client (105, fig. 1) can be referred to as first client while client (110, fig. 1) can be referred to as second client) sending HyperText Transport Protocol 'HTTP' requests to information provider (145, fig. 1); information provider responds to the HTTP requests by sending the requested data back to the client devices (col. 2, lines 55-59; col. 3, lines 23-28; HTTP uses unicast packets to route data; i.e., when a client sends a unicast request (using HTTP protocol; e.g., HTTP://www.cnn.com), the information provider (e.g., www.cnn.com) can reply by sending an unicast response to the requesting client).

Applicant further asserts Diwan does not disclose or suggest, "...creating a combined response, the combined response destined for reception by the first networked device and by the second networked device, the combined response including the overlapping portion (similar data) of information requested by the first and second networked devices, wherein the combined response comprises a multicast

Art Unit: 2152

packet.” As stated above, upon receiving a unicast request (via HTTP protocol) from the clients, the information provider (e.g., [www.cnn.com](http://www.cnn.com); cnn.com is an arbitrary information provider for use to illustrate an example only; other information providers can be used as well) can reply to the requests directly via unicasting. Diwan further discloses the agents (190, fig. 1) taking requests from plurality of clients and acting on behalf of the clients to send the requests to the information provider (145, fig. 1) (col. 3, lines 47-49). Receiving requested data from the information provider (e.g., [www.weather.com](http://www.weather.com); weather.com is an arbitrary example to show how same or similar data (weather reports) can be sent to plurality of clients at one time), the agents bundle or repackage the retrieved data (e.g., weather data) and distribute the data to plurality of clients at once via multicasting (col. 4, lines 17-23; the agent creates a combined response by bundling or repacking the retrieved data from the information provider and sends it to the requesting clients via multicasting). Therefore, with references to the teachings above, Diwan discloses the as claimed limitations of the invention.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 2152

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack P Nguyen whose telephone number is (571) 272-3945. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jpn



Dung C. Dinh  
Primary Examiner